IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos.8091 & 8527 of 2005

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WRIT PETITION No: 8091 of 2005

Between:

R.V.Satyanarayana, S/o. R.China Applaswamy,
Deputy Executive Engineer,

Quality Control Sub Division, I & CAD, Rajam,
Srikakulam District.

..... PETITIONER

AND

1 The Govt. of A.P., rep. by its Principal Secretary,
I & CAD Department, Secretariat, Hyderabad.
2 The Engineer-in-Chief, (Admn wing), I & CAD Dept,
Erramanzil, Hyderabad.
3 Sri H.Manmadha Rao, Deputy Executive Engineer,
S.I.Sub Division, Tekkali, Srikakulam District.
4 The Superintending Engineer, Quality Central (V&E) Circle,
Dowleshwaram, Rajahmundry, E.G. District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of Certiorari calling for the records relating to order dt.28.03.2005 passed in O.A.No.5181/2004 by the Hon'ble A.P. Administrative Tribunal, Hyderabad, and set aside the same as unjust and without any basis and also the G.O.Rt.No.1057 I & CAD (Ser.I) Dept., dt.30.08.2004 issued by the 1st respondent in cancelling G.O.Rt.No.1031 I&CAD (Ser.I) Dept., dt.27-08-2004 and posting the 3rd respondent in place of the petitioner and set aside the same as illegal, arbitrary, discriminatory, motivated and contrary to Article 14 of the constitution of India and contrary to Government orders and against the principles of natural justice and consequently declare that the G.O.Rt.1031 I & CAD(Ser.I) department dt.27-08-2004 as validly issued and direct the respondents to implement the G.O.Rt.1031 I & CAD (Ser.I) dept., dt.27-08-2004 in so far as the petitioner is concerned and continue him as Deputy Executive Engineer, Quality Control Sub Division, Srikakulam, in the interest of justice and pass such other order or orders.

Counsel for the Petitioner: MR.M.RATNA REDDY

Counsel for the Respondent Nos.1,2 & 4: GP FOR SERVICES-II.

Counsel for the Respondent No.3: MR.W.B.SRINIVAS (CAVEATOR)

WRIT PETITION No: 8527 of 2005

Between:

R.V.Satyanarayana S/o.R.China Appalaswamy

Deputy Executive Engineer,
O/o.Quality Control Sub-Division, I & CAD, Rajam, Srikakulam District.

..... PETITIONER

AND

1 The Government of A.P, Rep by its Principal Secretary
I& CAD Department Secretariat, Hyderabad.
2 The Engineer-in-Chief (Admn Wing)
I& CAD Department Erramanzil , Hyderabad
3 The Superintending Engineer
Quality Control (V&E) Circle Doweleshwaram, Rajahmundry, E.G.District.
4 Sri.H.Manmadha Rao
S.L.Sub division, Tekkali Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to order dt.28-03-2005 passed in O.A.No.6128/2004 by the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same as unjust and without any basis and also the G.O.Rt.No.1057 I& CAD(Ser.I) Department dt.30-08-2004 issued by the 1st respondent in cancelling G.O.Rt.No.1031 & Cad(Ser.I) Department dt.27-08-2004 and posting the 4th respondent in place of the petitioner and set aside the same as illegal, arbitrary, discriminatory, motivated and contrary to Article 14 of the Constitution of India and contrary to Government orders and against the Principles of Natural Justice and consequently declare that the G.O.Rt.1031, I & CAD(Ser.I) Department dt.27-08-2004 and G.O.Rt.No.1293 dt.27-10-2004 as validly issued and direct the Respondents to implement the G.O.rt.1031, I & CAD(Ser.I) department dt.27-08-2004 in so far as the petitioner is concerned and continue him as Dy. Executive Engineer, Quality Control Sub-Division, Srikakulam in the interest of Justice and pass such other order or orders.

Counsel for the Petitioner: MR.M.RATNA REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR SERVICES-II.

Counsel for the Respondent No.3: MR.W.B.SRINIVAS (CAVEATOR)

The Court at the stage of admission made the following:

ORAL COMMON ORDER:- (PER GB,J.)

Both the Writ Petitions can be disposed of by a common order as they arise out of a common order, dated 28.03.2005, passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.5181 of 2004 with VMA.No.731 of 2004 and O.A.No.6128 of 2004 with VMA.No.824 of 2004.

2. The petitioner in W.P.No.8091 of 2005 is the applicant in O.A.No.5181 of 2004, while the 4th respondent in W.P.No.8527 of 2005 is the applicant in O.A.No.6128 of 2004.

3. The petitioner was initially working as Deputy Executive Engineer in Rajam, Srikakulam District. While so, he made an application to the authorities for transfer to Srikakulam as the vacancy is going to arise on 30.09.2004, consequent on the retirement of incumbent, on the ground that his spouse was working at Srikakulam. Accordingly, the Government issued G.O.Rt.No.1031 I&CAD (Ser.I) Department, dated 27.08.2004, transferring the petitioner from Rajam to Srikakulam with effect from 30.09.2004. While the matter stood thus, the Government issued

G.O.Rt.No.1057 I&CAD (Ser.I) Department, dated 30.08.2004, cancelling the G.O.Rt.No.1031, dated 27.08.2004. Against the said Government Order, the petitioner filed O.A.No.5181 of 2004 and while admitting the O.A., the Tribunal suspended the order passed by the Government in G.O.Rt.No.1057. Against the said order, the un-official respondent filed W.P.No.20184 of 2004 and the same was dismissed on 03.11.2004. While so, the Government issued another G.O.Rt.No.1293, dated 27.10.2004, cancelling G.O.Rt.No.1057. Aggrieved by the said order, the 4th respondent filed O.A.No.6128 of 2004. Ultimately, both the O.As. came to be considered by the Tribunal and the O.A. filed by the petitioner in O.A.No.5181 of 2004 was dismissed, and the O.A. filed by the 4th respondent in O.A.No.6128 of 2004 was allowed. Against these orders, the present Writ Petitions have been filed.

4. Learned counsel for the petitioner submits that the order of the Tribunal is wholly illegal and misconceived and submits that the petitioner's case was considered on the ground that his spouse was working at Srikakulam, and therefore, G.O.Rt.No.1031, dated 27.08.2004, was issued. But, however, the learned counsel would submit that the 4th respondent, having been unsuccessful in getting the stay vacated, which was obtained by the petitioner in O.A.No.5181 of 2004, filed W.P.No.20184 of 2004 for setting aside the said order, and sought dismissal of O.A.No.5181 of 2004, but the said Writ Petition was dismissed. Thereafter, the Government issued G.O.Rt.No.1293, dated 27.10.2004, against which the 4th respondent filed O.A.No.6128 of 2004 and obtained interim suspension of the said Government Order. The learned counsel also submits that the case of the 4th respondent does not fall within the parameters of G.O.Ms.No.767, dated 21.08.2002, and hence the Tribunal ought not to have dismissed the O.A.No.5181 of 2004.

5. On the other hand, the learned counsel for the unofficial respondent submits that on the basis of the recommendation dated 18.06.2004 the Government issued orders in respect of wrong person i.e., the petitioner-Mr.R.V. Satyanarayana, which ought to have issued in favour of 4th respondent, and therefore, the orders issued in G.O.Rt.No.1293, dated 27.10.2004, are illegal and contrary to law.

6. We have heard both the learned counsel.

7. The matter relates to transfer of the employees to the post which fell vacant on 30.09.2004 consequent on the retirement of the existing employee - Mr.Kameshwara Rao. While it is the case of the petitioner that he is eligible to be transferred on the ground that his wife is working at Srikakulam, so also, the case of the 4th respondent that he was transferred not only on the ground that he has experience in quality control, but his wife is also working at Srikakulam, and therefore, the issue that ought to have been considered by the Tribunal is with regard to the circumstances under which the transfer could be issued.

8. Be that as it may, the Tribunal has not referred to the respective cases in coming to the conclusion, while allowing the O.A.No.6128 of 2004.

9. In order to resolve this issue, the Government has to decide the necessity of transferring a particular person, keeping in view the respective requirements. Under those circumstances, we set aside the order of the Tribunal and remit the matter to the Government for fresh consideration. The Government shall consider the matter, keeping in view, the necessities of both the employees and giving priority to one of them and pass appropriate orders within a period of three weeks from the date of receipt of a copy of this order. Till such time, the 4th respondent who is already working at Srikakulam shall be continued.

10. With the direction indicated above, the Writ Petition are disposed of. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 20.04.2005

ES/KVRM

To

1 The Principal Secretary, Government of A.P,
I& CAD Department Secretariat, Hyderabad.
2 The Engineer-in-Chief (Admn., Wing)
I& CAD Department Erramanzil , Hyderabad
3 The Superintending Engineer,
Quality Control (V&E) Circle Doweleshwaram, Rajahmundry, E.G.District.
4 2 CCs to the GP for Services-II, High Court buildings, Hyderabad (OUT)

5 2 CD copies